

REMARKS

Examiner Goodrow is thanked for advising undersigned in a recent telephone conference that he would consider a Supplemental Amendment. Accordingly, claim 22 is amended above to add the feature of previous claim 9 in the Reply filed July 15, 2008, consistent with the earlier telephone conference on or about June 24, 2008.

Applicants submit that claim 22 should be patentable for the reasons as in previous claim 9. Moreover, even though claim 22 is partly product-by-process, it also contains structural and chemical features which make it more of a hybrid product-by-process claim. Clearly, these physical and chemical aspects should be given full weight.

As regards to the process aspects, the Examiner's attention is respectfully invited to *In re Luck et al*, 177 USPQ 523, 525 (CCPA 1973), where the Court stated:

As for the method of application, it is well established that product claims may include process steps to wholly or partially define the claimed product. See *In re Brown*,... 459 F.2d 531, 535, 173 USPQ 685, 688 (1972), and the cases cited therein. To the extent these process limitations distinguish the **product** over the prior art, they must be given the same consideration as traditional product characteristics. In the present case, we cannot agree with the Patent Office that the absence of the carrier in the final product renders the carrier immaterial. The method of application could well result in a difference in the coated

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article, regardless of the fate of the
solvent. [Emphasis in original]


Thus, the process recitations must also be given weight to the extent that they define or characterize the product. Applicants believe that it should be readily understood in the present case that the nature of the resultant product differs from similar products due to the process by which it has been made, as recited in claims 9 and 22.

Accordingly, applicants respectfully request not only allowance of claims 1-8 and 10-21, but also claim 22.

Favorable consideration is respectfully requested.

Respectfully submitted,

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